

COLLATERAL LAW AND CENTRAL REGISTRY PROGRAM, LATVIA

FINAL REPORT

August 25, 1999

Submitted by:

Booz· Allen & Hamilton

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I. GENERAL INFORMATION

- A. Reporting Time:** June 28, 1998 to July 31, 1999
- B. Contractor:** Booz·Allen & Hamilton.
- C. Contract Number:** EPE-1-00-95-0071-00
- D. Task Order Number:** EPE-08-95-0071
- E. Country:** Latvia.
- F. Title of Task Order:** Collateral Law and Central Registry Program, Latvia
- G. Date of this Report:** August 25, 1999
- H. Referenced Persons, Title and Organization**
 - 1. Howard Handler, USAID, Riga, Latvia
 - 2. Robert Maushammer, USAID, Riga, Latvia
 - 3. Marc Hersh, Booz·Allen, Virginia
 - 4. Eufrona A. Snyder, Chief of Party, Booz·Allen, Riga
 - 5. Vadim Belyaev, Project Attorney, Riga
 - 6. Maris Gulbis, Chief State Notary, Enterprise Registry Latvia
 - 7. Janis Endzins, Deputy State Notary and Attorney for Enterprise and Pledge Registries
 - 8. Deneza Berzina, Deputy State Notary and Manager for Pledge Registry
 - 9. Zane Kronberga, Deputy State Notary and Assistant Manager for Pledge Registry
 - 10. Evija Klavina, Assistant to Manager, Pledge Registry
 - 11. Ainars Bruvelis, President of Lursoft (service manager for computer system for Pledge Registry)
 - 12. Ingrida Labucka, former Minister of Justice
 - 13. Gunta Vishnakova, Member of Legal Committee for the Saeima

II. EXECUTIVE SUMMARY

This is the Final Report for the Collateral Law and Central Registry Program, Latvia, which also includes the quarterly report for April 1, 1999 to July 31, 1999. Booz·Allen & Hamilton (Booz·Allen) was tasked by the United States Agency for International Development (USAID) to assist Latvia in establishing a modern collateral law system. This effort was a continuation of assistance by USAID on collateral law reform which focused on the drafting and passage of a comprehensive new law and completion of an assessment/feasibility study of the plans for a national collateral registry system. This report will provide a summary of the tasks, deliverables, lessons learned, recommendations for future tasks which may be advisable for sustainability of the accomplishments under the Project, and recommendations for the region.

The purpose of the Project was to assist in a) the establishment of a collateral system which would be effective to serve the interests of the creditor and debtor alike and used as a means to expand access to credit by holders of business assets pledged as collateral; and b) the education and dissemination of information to the Pledge Registry and designated target groups. The Scope of Work anticipated a two phase approach to the tasks. Booz·Allen met the requirements of this delivery order by 1) drafting modifications to and lobbying for the passage of the Commercial Pledge Law; 2) counseling the Pledge Registry in drafting and passage of regulations to implement the Commercial Pledge Law; 3) providing

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technical assistance in evaluating and establishing systems and procedures for a more effective Pledge Registry; 4) providing training to the staff of the Pledge Registry and target groups about the Commercial Pledge Law; 5) planning and conducting an overseas training and exchange program for Latvians involved with the Commercial Pledge Law and Pledge Registry; 6) developing a design and text for a web site; and 7) supplying written materials for publication and storage in a repository. Please see Chart No. 1 for more specific description of stated objectives and actual deliverables. Chart No. 1 is included in the Appendices as **Attachment A**.

Latvia has an integrated, computerized registry system based upon legal principles consistent with European Bank for Reconstruction and Development (EBRD) standards, Uniform Commercial Code (UCC) model and other international standards for creditors. Training was provided to certain target groups during the term of the Project. The development of the design and text for the web site shall provide continuing educational material to a wide range of individuals in the future. During the course of this Project, Booz·Allen Team gained insight into certain business and legal aspects of collateral law systems which may be applied to other regions in developing countries who are transitioning to free capital market economies. These findings are included with a summary of the tasks, deliverables and future task which may be advisable for the sustainability of the accomplishments under this Project.

III. BACKGROUND

A. Overview of Initial Scope of Work

The Project's overall purpose was to assist Latvia in putting in place a modern collateral law system. The Scope of Work anticipated two phases. Phase I included that period of time in which the Commercial Pledge Law was drafted and passed by the Latvian Parliament, the Saeima (June 28, 1999 to October 16, 1999). Phase II covered the period of time covering the implementation of the law (October 16, 1999 to July 31, 1999). Some overlap of activities of Phase I and II were planned if the enactment of the law was delayed.

Under Phase I, the Project was to cooperate with and assist the legal liaison and advisor of American Bar Association Central and Eastern Europe Law Initiative (ABA/CEELI) assigned to Latvia in the drafting and passage of the Commercial Pledge Law. The Project was also to coordinate its activities with the Instituts Latvija.

Under Phase II, the Project was to provide advice and training for the Pledge Registry's managers and staff as consistent with and in furtherance of the Commercial Pledge Law, including 1) incorporating the standards of the computer systems industry for accuracy; 2) developing constituent relations with debtors, creditors and interested third parties; and 3) maximizing the efficiency of the registry operations, including costs control and fee revenue. The goal was to maximize the efficiency and accuracy of the Pledge Registry while increasing the use and availability of the services (including reducing any restrictions based upon costs to borrower and lender) of the Pledge Registry by the business community.

Ancillary to the function of the Pledge Registry was the impact of the Commercial Pledge Law on other entities and individuals involved in business financing in Latvia. The Project was to design and conduct (directly or through other spokesperson) training and a public awareness program with the following target groups: business owners; bankers and officers of other entities engaged in business financing; lawyers and other business consultants; judges and court officials; Latvian governmental policy makers in the legislative and executive branches concerned with the government's economic reforms; university, business and other academic persons, and, the general public which should have a functional awareness of the law. The goal was to provide such groups with an understanding of the purpose of the Commercial

Pledge Law, the importance of that law in promoting the economy of Latvia, and the role of those specific individual or entities in the implementation and use of the law.

As a separate task, the Project was to plan and complete an overseas training and information exchange program for Latvians in aspects of collateral law implementation. The goal was to provide Latvians an opportunity to compare and contrast the Commercial Pledge Law and its implementation in Latvia with those systems and laws within other areas through direct dialogue with other registry systems management and personnel and observation of such systems.

B. Revisions to Work Plan and Scope of Work

Due to the delay in the implementation of the law, revisions to the timing and sequence of certain tasks were made. It was anticipated that by the arrival of Eufrona A. Snyder, Booz·Allen's in-country representative, on June 28, 1998, that the law would be enacted. However, the passage of the proposed bill was stalled and in jeopardy of not passing during the 1998 legislative year. Failure to pass the proposed bill by the end of the legislative year would have required a complete start over of the legislative process after the national election. Additionally, the ABA/CEELI representative notified the USAID Region office that he would be departing earlier than planned. The Work Plan was revised to increase the efforts by Ms. Snyder in lobbying for the passage of the proposed bill.

The Commercial Pledge Law was enacted on October 21, 1998; however, it did not become effective until March 1, 1999 and required the enactment of certain regulations, and included the creation of a detailed application form, before the law was fully operational. The Scope of Work did not anticipate this two-step process in implementation of the law. The Project continued with its efforts in the implementation phase of the law by assisting the Pledge Registry in drafting and submitting the proposed regulations, including the application form. During the course of these discussions and efforts, the Pledge Registry and Project identified certain discrepancies and inadequacy in the law which required amendments or other corrective steps. The Project assisted the Pledge Registry in preparing these amendments for submission to the legislature.

The Commercial Pledge Law also required the Pledge Registry to assume some of the duties and functions of other registries who had been tracking pledges on titled properties. The assumption of these duties and functions required the cooperation of the other registries but the Commercial Pledge Law and other laws regulating such registries did not clearly define the responsibilities and rights of the registries in fulfilling the terms of the Commercial Pledge Law. It was decided that the Project should perform an analysis of the procedures of the other registries for the purpose of offering advice to the Pledge Registry on modifications to its procedures and systems made necessary by this provision of the Commercial Pledge Law.

The Scope of Work required the Project to conduct a series of seminars and roundtables for target groups which were to begin after the passage of the law. It was decided that there was sufficient similarities between the existing practices of the Pledge Registry and legal basis for commercial pledges with the proposed bill to justify conducting presentations to certain target groups (e.g. judiciary) before the law was enacted. The presentation included a comparison of the practices and law in effect at the time of the presentations and the proposed Commercial Pledge Law. Due to cultural and social factors and specific requests from the respective target groups, the length and number of presentations were reduced. While it was anticipated that the same or similar material would be used for all target groups, it was determined that more individualized and focused material was necessary.

The Scope of Work anticipated that publication, press and media efforts would require a wide-spread, general distribution of information more applicable to the individual consumers. The Commercial

Pledge Law deals primarily with transactions between businesses and secondarily with individuals who are restricted on the items that they can use as charged property (e.g. cars, airplanes). It was decided that the Project should focus on the target groups (e.g. businesses, lenders, and legal) rather than the individual consumer. To insure sustainability of the educational benefit, the Project was authorized to hire a short-term consultant to assist the Pledge Registry in developing a mission statement and media strategy which would extend beyond the end of the Project. To increase the number of participants and length of time that educational material would be available to those participants, as well as ease of updating the material, the method of distribution of information was broadened to include the internet. The Project assisted in the development of the design and text of a web site for the Pledge Registry.

C. Constraints

The primary and initial constraint on the completion of the tasks of the Project was the delay in the passage of the Commercial Pledge Law. Nearly four months after the commencement of the Project, the law was finally enacted and did not become effective until approximately nine months after the arrival of Ms. Snyder in Latvia.

Secondarily, the political environment in Latvia remained volatile. Some fractions within Latvia see the full-disclosure afforded by a central, computerized registry system as detrimental to how they do business. Budgetary constraints have also limited the allocation of funds to the Pledge Registry to institute certain technological changes.

Overall these constraints were not major deterrents from the successful completion of the tasks. They did, however, result in some revisions to the manner and timing of deliverables.

IV. TASKS UNDERTAKEN AND ACCOMPLISHMENTS

A. Task No. One: Provide Advice on Legislative Matters Concerning the Implementation of the Commercial Pledge Law

Stated Objectives	Revisions	Actual Results
Enactment of Law: provide information to executive and legislative branch officials, as needed, for use in their deliberation of draft law.	Project to take a more active roll in lobbying passage of law.	Law enacted in October 21,1998 and became effective March 1, 1999.
Provide commentary and consultation to Latvian officials responsible for making final drafts of law for presentation to Saeima.	Project to take a more active roll in seeking modification of final draft of law.	12 of 13 modifications developed through discussion groups led by Project were incorporated into draft of law enacted.
Conduct appropriate coordination with the ABA/CEELI legal liaison concerning Phase I activities, including drafting of the law.		Until the departure of the ABA/CEELI liaison in October1998, the Project and liaison coordinated activities relating to the passage of the law.

Stated Objectives	Revisions	Actual Results
	Project to assist in drafting regulations for enactment, including meetings (if necessary) with Minister of Justice and key parliamentarians. Review Commercial Pledge Law and other related laws to determine any key problem areas which cannot be addressed by the enactment of regulations procedures and systems and thus would require amendments to the law.	Project met no less than 7 times with Registry staff and interacted extensively with counsel for Pledge Registry and Legal Counsel in drafting regulations and application form. One meeting with Minister of Justice, Ingrida Labuka, with USAID representatives and Maris Gulbis, Chief State Notary of Enterprise Registry. Assisted counsel for Pledge Registry in drafting proposed amendments to law. Regulations, including application form, approved by Cabinet on March 3, 1999. Some proposed amendments were submitted to the Saeima for enactment in 1999.

The Project assisted in the modification, enactment and implementation of the Commercial Pledge Law. While it was anticipated that the Commercial Pledge Law would be enacted by the time of arrival of Ms. Snyder on June 28, 1998, the Commercial Pledge Law was not enacted until approximately four months later with the legislature completing the third and final reading of the law on October 21, 1998 and the publication of the text of the law in the official legal newspaper on November 11, 1998. During this interim period, the Project directed meetings with the Pledge Registry and legislative members at which certain amendments to the proposed bill were developed and lobbied key legislative members to expedite the passage of the law. The law became effective on March 1, 1999 and included 12 of the 13 proposed amendments that were developed through the meetings.

The Commercial Pledge Law required that certain regulations be prepared and approved by the Cabinet of Ministers before full implementation of the law. The Project led discussions groups and assisted in the drafting and submission of the regulations, including the detailed application form required for registration of a pledge. The regulations were enacted on March 3, 1999.

Discrepancies and shortcomings in the law were identified during the discussions with the Pledge Registry. The Project prepared proposed amendments which were submitted to the Pledge Registry for consideration. Of those proposed amendments, the Pledge Registry selected certain key amendments which were submitted to the legislature for enactment in 1999. Legal counsel for the Project, Vadim Belyaev, prepared an article describing the proposed amendments to the Commercial Pledge Law, which is included in Appendices as **Attachment B**.

B. Task No. Two: Provide Technical Advice to Pledge Registry and Other Registries Relating to the Implementation of the Commercial Pledge Law

Stated Objectives	Revisions	Actual Results
Complete Review of Current Procedures	Project to review procedures and software application which had been designed, installed and working on Pledge Registry	Cost Analysis completed within first three weeks.
	Project to assist in modification to procedures and software application as required by law and regulations	7 Meetings with Registry Staff and Legal Counsel. Other meetings included meeting with Bureau of Statistics for Latvia and Registry regarding development of Regulations and Application form; meeting with other registries and Pledge Registry Staff to discuss interaction of registries under Commercial Pledge Law. Meetings with Lursoft. Consultations with Lursoft confirmed introduction of some of the modification to fields and application required for new application form has resulted in some delay of implementation.

The Pledge Registry has an integrated, computerized system. A form of this system was operational upon the arrival of Ms. Snyder. The legal basis and procedures of the then existing system were firmly rooted in the positive registry system rather than the notice system. As such, the initial assessment was completed with the assumption that the new law would follow those basic principles. Project focus was on a) specific content of the proposed law; b) procedures/protocols required for pledges; c) entry of data in computerized and other data bases as required by law; c) constituent relations including provisions for accurate information on registry data, procedures and requirements of debtors, creditors and third parties; d) measures to maximize efficiency of registry operations.

A Cost Study was completed within the first three week. A copy of the Cost Study is include in the Appendices as **Attachment C**. The study concluded that the costs were reasonable and acceptable to the business community.

Due to the requirements of the Commercial Pledge Law and expansion of the Pledge Registry, certain modifications to the systems were required. In particular, the Commercial Pledge Law requires the Pledge Registry to confirm information that is contained in other registries prior to approving an application and to verify that the charged property has not been pledged through a previous application. The Project reviewed the systems of the other registries for the purpose of determining modifications that needed to be made to the Pledge Registry's system and procedures. The system was modified through the design of the application form; incorporation of links between fields within the Pledge Registry database; and, construction of the application to be able to access information in other registries. In addition, the Pledge Registry increased its staffing, and opened a number offices in the regions outside Riga. Additional hardware and corresponding software were needed to equip the new offices. The service manager, Lursoft, commenced modification to the computer system. Financial restraints, however, imposed by budgetary and political factors have slowed and limited the full completion of the modifications. Informal agreements between the registries have bridged the gap until more formal steps can be taken to define the roles of the various registries. An amendment has been proposed and submitted

to the Saeima to address some of the functions of the Pledge Registry and Road Safety Director. A copy of that amendment is include in the Appendices as **Attachment D**.

C. Task No. Three: Provide Training Services to the Pledge Registry and Other Registries

Stated Objectives	Revisions	Actual Results
Complete Curricula and Presentations to Staff of Registry: conduct initial detailed curricula for training of registry managers and staff w/in 60 days; conduct initial training w/in 75 days; prepare second round of training w/in 100 days; conduct training w/in 120 days; revise curricula w/in 160 days; conduct third round of training w/in 190 days	Project to conduct four classes for 1.5 to 2 hours at Pledge Registry.	Project conducted 3 two hour presentations to Registry Staff.
	Project to conduct training of staff after passage of law.	Training of existing and new staff members conducted by Pledge Registry Management personnel who had received earlier training. Project acted as advisor.

In response to the Project's initial report to the Pledge Registry on the Project's review of the Pledge Registry's procedures, the Pledge Registry requested that the Project conduct a series of training sessions. A total of three sessions were held with the final session being conducted by a guest speaker, Joachim Menze of the European Bank of Reconstruction and Development. The attendees included the chief notaries and legal counsel for the Enterprise Registry and Pledge Registry as well as staff members of both registries. The content of these training sessions was to 1) provide the Pledge Registry with a background understanding of the law of secured lending or credit, and 2) introduce the conceptual approaches proposed by the EBRD and ABA/CEELI in the establishment of a registry. The presentations compared the legal bases for registries in other European countries, including the Central and Eastern European countries, with the Latvian registries.

After the enactment of the Commercial Pledge Law, the Pledge Registry increased its staff in the main office in Riga and the offices in the region. The Manager of the Pledge Registry, Deneza Berzina, and her staff conducted training sessions of the new personnel based upon material presented at meetings with the Project.

Initially it was anticipated that there would be some cross-training of the staff of the Pledge Registry and other registries. The registries, however, elected to conduct their respective training programs separately.

D. Task No. Four: Provide Training and Public Awareness Activities for Systems Users

Stated Objectives	Revisions	Actual Results
Complete Curricula and presentations to Target Groups w/in 75 days prepare curricula; w/in 90 days present one 2-3 day seminar and four half-day roundtables; w/in 120 days, revised curricula prepared; w/in 150 days, three seminars and six roundtables; w/in 180 days, revised curricula prepared; w/in 210 days three seminars and six roundtables completed.	Project to develop individualized course material for respective target group; length of presentation and audience size decreased in accordance with target group needs and requests . Development of design and text for a Website for Pledge Registry.	6 presentations to judiciary; 3 five hour lawyer discussion groups; 4 presentations to business and law students; 5 presentation to business community (Riga and Valmiera); 1 presentation to Journalist Union; 1 presentation to overseas legal and business communities.

1. Judicial Training

Six (6) three (3) hour presentations have been made to the Judiciary. Speakers were Vadim Belyaev, the Project's counsel and author of the original Commercial Pledge Law; Gunta Vishnakova, lead legislative attorney on the Legal Committee of the Saeima and expert in the Civil Procedure Code; Janis Endzins, counsel for the Pledge Registry; and Ainars Bruvelis, President of Lursoft. Classes were held at the Judicial Training Center. A copy of sample course material is included in Appendices as **Attachment E**. Approximately one-third of the judges in Latvia have received instruction on the Commercial Pledge Law.

2. Legal Meetings

Three, four-to- five-hour sessions were held with representatives of the Pledge Registry, legal and legislative communities. In the first three sessions of the Legal Meetings, the Project developed 28 situational studies and presented the same to the group to study the legal impact of the Commercial Pledge Law [See **Attachment F** of the Appendices for list of situational studies]. The situational studies resulted in the discovery of several inconsistencies in the law and impractical requirements that would be imposed on the Pledge Registry. The last session of the Legal Meetings was devoted to developing specific terminology to incorporate and alter the language of the Commercial Pledge Law. The participants included legal representatives from the Registry who, with Ms. Vishnakova, presented the changes at the Legal Committee meeting on October 7, 1998. Twelve of the thirteen proposed amendments were accepted by the Legal Committee of the Saeima for inclusion in the final draft to be submitted to the Saeima.

3. Presentations to Business and Law Students

Two, 2 hour presentations were made to the Riga School of Business on September 23 and 29, 1998. Robert Maushammer of USAID assisted the Project by making presentations on the economic issues relating to the passage of the Commercial Pledge Law. At the first session, there were 45 attendees. Materials relating to the Commercial Pledge Law, Pledge Registry and Economic Issues were provided to the attendees. [See **Attachment G** of the Appendices for materials.] After a review of the evaluations made by those attendees, adjustments were made to the curriculum to provide more generalized information on economic issues and specific examples as to the legal issues. [See **Attachment H** of the

Appendices for revised material] There were 107 persons in attendance at the second session. The evaluations provided supported that the changes in the curriculum were well advised and the evaluations showed that the audience felt that the information was more applicable to their careers with greater comprehension.

On October 5, 1998, an one-hour and 30 minute presentation was made by Eufрона A. Snyder, to the Riga Business Institute on the legal issues relating to the Commercial Pledge Law and the current functions of the Pledge Registry. 37 persons were in attendance. Materials were distributed to the attendees. [See **Attachment I** of the Appendices for materials.] The question and answer period which followed the presentation suggest a general support of the concept of a Pledge Registry as a necessary part of the market economy. Albeit, some of the participants made some unfavorable remarks about their respective experiences with the Pledge Registry. Interestingly, these comments related to some of the proposed amendments to the Commercial Pledge Law which had been developed at the Lawyers Meetings (e.g. that rejections of applications were made due to the description of collateral). The Riga Business Institute is a USAID project which offers an American-styled MBA program. Over half of the attendees at the presentation are already involved in management of businesses in Riga.

On November 10, 1998, the Project made a presentation to the law students at Latvia University School of Law. The speakers were Vadim Belyaev and Eufрона A. Snyder of the Project, and Zane Kronberga, Assistant Manager of the Pledge Registry. A copy of the course material is included in Appendices as **Attachment J**. 20 law students attended the presentation.

4. Presentation to Business Communities and General Public

On February 22, 1999, a three hour presentation to approximately 160 individuals was made at the offices of the Enterprise Registry. The presentation had been advertised in several local and national newspapers. Speakers were Maris Gulbis, Deneza Berzina, Vadim Belyaev, and Eufрона A. Snyder. Copies of the new application form were distributed to the attendees. [See **Attachment K** of the Appendices for a copy of the application form.] A question and answer period was included in the presentation. A press conference followed the presentation which included print and television reporters.

A half-day conference was held on April 27, 1999. Approximately 50 individuals attended who were representatives of businesses, banks, lawyers, students, and journalists. Several persons from regions outside of Riga also were present. The speakers were Maris Gulbis of the Enterprise Registry, Deneza Berzina of the Pledge Registry, Vadim Belyaev, Marc Hersh and Eufрона A. Snyder of Booz·Allen and Ainars Bruvelis of Lursoft. The topics covered the changes in the law affected by the enactment of the Commercial Pledge Law; the new procedures for filing applications; legislative issues, and the new law's possible economic and international effect on Latvia.

As part of the Media Strategy developed with the short term advisor (See Task No. Six below), a three hour seminar was made to the public and business communities in the region of Valmiera on May 25, 1999. Speakers were Maris Gulbis of the Enterprise Registry, Deneza Berzina of the Pledge Registry, Ainars Bruvelis of Lursoft and Eufрона A. Snyder of Booz·Allen. The seminar had a practical approach to the presentation of the material. Copies of the new application form, law and contact information were distributed to the attendees. The question and answer session after the presentation was lively and lasted more than one hour. While some of the attendees knew about commercial pledges from their work, three of the 30 attendees heard the term for the first time. Several of the attendees requested a follow up sessions. As the result of the success of this seminar, the Pledge Registry was encouraged to continue the Media Strategy of presentations in the region. These seminars are scheduled to take place in the last quarter of 1999.

Two meetings were held with the Commercial Bankers Association, which is made up of representatives from all the major banks in Latvia. The first meeting on December 17, 1998 was to review the draft regulations, including the application form, and to solicit suggestions for any amendments that might be appropriate. Twenty representatives were present. After a summary of the law was provided by Maris Gulbis and Janis Endzins of the Enterprise Registry, Zane Kronberga of the Pledge Registry and Ainars Bruvelis of Lursoft, the Project gave the representatives a sample transaction and asked the attendees to prepare the application form using the transaction as a guide. The attendees divided up into three work groups to complete the exercise and present their comments. This process was successful in reducing the reluctance to offer comments that had been experienced at other meetings. The attendee's comments related to the length of the form and the complexity of categories required to define secured property. One additional meeting was held on June 3, 1999 to discuss specific issues and questions that had arisen since the effective date of the Commercial Pledge Law. The discussion was led by the Project's counsel, Vadim Belyaev. There were 16 attendees. A summary of the issues discussed are set forth in Mr. Belyaev's memo which is included in Appendices as **Attachment L**.

5. Journalist Union Meeting:

It was clear from the content of several articles that had been written about the Commercial Pledge Law and activities of the Pledge Registry by the Latvian press that certain concepts and specific facts about the law and Pledge Registry were not well understood by the members of the press. The Journalist Union invited the Project and members of the Enterprise Registry and Pledge Registry to present material on these topics on October 21, 1998. The format of the meeting was a panel discussion followed with questions by the journalist. Participants were Maris Gulbis of the Registry, Deneza Berzina of the Pledge Registry, Ainars Bruvelis of Lursoft and Eufrona A. Snyder of Booz·Allen.

6. USA Presentation

As part of the Overseas Training and Exchange Program in May 1999, the Latvian delegates with the Project's Chief of Party, Eufrona A. Snyder, made a presentation to representatives of the Southern California legal and business communities involved with banking and lending. The speakers were Maris Gulbis of the Enterprise Registry, Vadim Belyaev of the Project, Evija Klavina of the Pledge Registry, Ainars Bruvelis of Lursoft and Eufrona A. Snyder of Booz·Allen. Copies of the Commercial Pledge Law and the Pledge Registry pamphlet distributed at the presentation are included in the Appendices as **Attachments M** and **N** respectively. Please see **Attachment O** of the Appendices for a more information on the Overseas Training and Exchange Program.

E. Task No. Five: Develop Plan and Implement Media Coverage for Commercial Pledge Law and Functions of the Pledge Registry

Stated Objectives	Revisions	Actual Results
Publication, Press and Media: w/in 90 days, two comprehensive articles on new law written and one comprehensive program on TV; w/in 150 days, four additional articles published and two TV segments; within 210 days, four additional articles and two additional TV segments	Project to focus attention on target groups rather than individual consumer. Three to four articles for publication in local press on legal aspects of CPL. One to two articles for international publication. Development of media strategy methods for Pledge Registry for public information. Short term advisor to assist Pledge Registry in this development and also advise Project on other media activities. Pamphlet to design for distribution. Use of advertisement or other public service announcements for TV and radio.	There were over 24 articles about the Pledge Registries in local newspapers and magazines, including one regional article based on interview with COP. There were numerous TV presentations relating to the Pledge Registry or Enterprise Registry, including two interviews of the COP regarding the law and Pledge Registry. A short term advisor worked with the Pledge Registry and developed a six month plan for public education. Pamphlets in English and Latvian were printed for distribution at seminars and available to public and business agencies.
	Project to assist Pledge Registry in developing "mission statement" to focus public education efforts by Pledge Registry.	Short term advisor in connection with developing Media Strategy Plan assisted Pledge Registry in developing "mission statement". Further development tools were provided to Pledge Registry through overseas training course at University of California Irvine.
	Method: Project to focus on television, email, mail and newsprint. Video replaced by interactive, educational website.	Interviews of Maris Gulbis, Deneza Berzina, and Eufona Snyder were televised. Newspapers included Riga and regional papers. The Pledge Registry incorporated some of the techniques suggested by short term advisor in preparation of "press kits". However, the suggestions for mass mailing and non-profit lobbying was not effective in generating any responses. Design and text developed for website.
	Timing: Project should provide mechanism for publication to continue after end of project.	Development of material for website was decided to be the most effective method of providing continuing publication of material. Material prepared and presented to Pledge Registry and Lursoft for installation which is anticipated by September 1999.

The Commercial Pledge Law and Pledge Registry received good coverage in the media. In total, 24 articles appeared in written publications. Please see **Attachment P** of the Appendices for a list of the publications. The Pledge Registry had initiated coverage through a series of articles in the written press. Maris Gulbis, the Chief Notary and head of the Enterprise Registry was a popular and common spokesperson for the Enterprise Registry and Pledge Registry in print and television. However, the focus of the press releases was unclear and appeared at times to take on a political nature. A short term advisor

on public education assisted the Pledge Registry in defining a mission statement and media strategy. The course material in the Overseas Training and Exchange Program also emphasized long-term planning and defining a mission statement in an evolving information technological agency. A copy of the media strategy plan is included in Appendices as **Attachment Q**. Please see report on Overseas Training and Exchange Program which is included as **Attachment O** of the Appendices.

Other publications included two articles by Mr. Belyaev, the counsel for the Project, which was published in the legal newspaper. Ms. Snyder participated in five press conferences and interviews on the topic for the local and regional press and television. One conference included USAID representative, Howard Handler. This later conference resulted in a front page article in the main business paper of Latvia. A copy of the article is included in **Attachment R** of the Appendices.

Two recommendations in the Media Strategy Plan were to use mass-mailing to survey potential users and to contact and survey to non-profit organizations. Despite the Pledge Registry efforts, mass-mailing and lobbying non-profit organizations was not successful. This may be due to the general lack of trust of the postal service and new status of non-profit organizations in Latvia. It is observed that the Latvians are very comfortable with the use of the email system to receive and send information. The Pledge Registry sends notices of meetings and news items to pre-selected addressees.

To insure that information regarding the Commercial Pledge Law and Pledge Registry would continue after the end of the Project, the Project assisted in the preparation of the design and text of a web site. The web site can be located at [<http://www.ur.gov.lv>]. Copies of the text are attached in **Attachment S** in the Appendices. Included in the web site will be a comprehensive article comparing the Commercial Pledge Law and Registry to international standards which was written by Ms. Snyder.

F. Task No. Six: Plan and Complete International Seminar on Collateral Law and Overseas Training Programs for Latvians

Stated Objectives	Revisions	Actual Results
International Seminar on Collateral Law: w/in 150 days conduct seminar focusing on registries as well as system users and policy makers	International seminar of European and Central European Countries Registries on issues and practices of registries.	2 day seminar in Riga, Latvia where heads of registries from Estonia, Lithuania, Byelorussia, Denmark, Finland, Great Britain, Sweden, Switzerland, and Ukraine attended. The next conference is to be held in Sweden in September 1999.
Training Sessions for Latvians: w/in 270 days plan and complete overseas training program for one to two weeks for not to exceed eight Latvians in aspects of collateral law implementation	Training sessions should focus on management of IT in governmental agency; issue common to other registries in USA and also include opportunities of Latvians to exchange information on its system.	10 day course of 9 Latvians which provided training and exchange program. Visits to the registries of Orange, Los Angeles, and San Bernardino counties. Study of management techniques and technology at offices of Booz-Allen and University of California, Irvine.

On September 28 and 29, 1998, an international conference focusing on cooperation and exchange of information between the commerce registers of country participants was held at the Radison Hotel, Riga, Latvia. Ms. Snyder gave a formal presentation to the conference on September 29th; participated in a series of discussion groups; co-chaired the final discussion session and assisted in writing the Memorandum of Conference signed by the country participants. In addition to the terms of the Memorandum of Conference, the participants agreed that the next annual meeting will take place in Sweden; the participants will cooperate in a study/observation program between the different countries; and that as to those countries having web sites, such countries will cross-reference each other sites.

Further, some of the countries (Norway, Sweden and Finland) are participants in the European Business Register. The other country participants, including Latvia, will review the requirements and benefits of joining that agency rather than forming new committees to study issues of common concern. (See **Attachment T** of Appendices for material from conference including Memorandum of Conference.)

The objectives of the Overseas Training and Exchange Program were successfully completed. While emphasis is often placed on the "training" aspects of such a program, the results of the Overseas Training and Exchange Program illustrate the benefits that are derived from creating opportunities for the exchange of information between the delegates and their host nation.

The objectives of the Overseas Training and Exchange Program were to provide opportunities to select individuals who are involved with the process of interpretation, application and promotion of the Commercial Pledge Law and functions of the Pledge Registry and related activities of the Ministry of Justice to:

1. Observe practices of other registries to illustrate issues which are key to implementing and maintaining an efficient and competitive registry
2. Study management techniques and technology that are applicable to those governmental entities and business dealing with information filing, storage and retrieval and
3. Develop contacts with other officials and individuals who are acting in the same capacities to assist in maintaining and continuing dialogue on resolutions of current and future issues that will face registries.

The attendees and their respective capacity are listed on **Attachment O**. An itinerary is included in Appendices as **Attachment O**. Attendees made three on-site visits to representative registries in the Southern California area (Orange, Los Angeles, and San Bernardino Counties); participated in a specifically designed management course for information technology agencies by University of California Irvine and reviewed some of the latest technology and procedures available in the industry at the offices of Booz·Allen. The agenda for the Overseas Training and Exchange Program included a presentation by the Latvians to business and legal communities in Southern California. The response by the Latvians was very positive and they specifically stated that the new ideas acquired in the program would be helpful in their respective jobs. The areas of greatest interest included: 1) influence of IT on legal registration processes; building of relationships with employees; 2) management principles and management of people in an organization; and 3) document processing, new technology in IT. The participants believed that they would be applying this new information to improve management practices at the Pledge Registry in 1) methods in the Pledge Registry; 2) management techniques at the Registry of Enterprises; and 3) work to improve legislation. For a more specific description of the Overseas Training and Exchange Program, please see the Overseas Training and Exchange Program Report, which is included as **Attachment O** of the Appendices.

G. Task No. Seven: Devise an Appropriate Plan for Repository in Latvia of All the Curricula, Presentation Material, Publications and Other Documents Produced during Project.

Stated Objectives	Revisions	Actual Results
Develop Repository w/in 270 days devise an appropriate plan for the repository in Latvia of all curricula, presentation material, publications and other documents during the course of the Task Order	Provide relevant and current documents to Repository.	Materials were delivered to Judicial Training Center and Pledge Registry. Key material will also be incorporated in material for web site of Pledge Registry.

Relevant and current documents were provided to the Judicial Training Center and the Pledge Registry. However, it was decided that the key to preserving the material from the Project was to store the information most beneficial in educating target groups on the web site for the Pledge Registry. See **Attachment S** of the Appendices.

V. LESSONS LEARNED

A. Factors affecting the time period required to enact a law include the relative importance of the proposed legislation to other pending legislation being reviewed by the parliament, parliamentary procedures to expedite consideration of the proposed legislation and influence of the local sponsor of the bill .

A significant delay occurred in the enactment of the Commercial Pledge Law which directly affected the timing and sequence of the completion of the tasks in the Project. In planning the sequencing of tasks under a project, it is important to include in the assessment, the factors that influence the legislative process. These factors include 1) the relative importance of the law to the country; 2) the existence of legislative procedures to expedite the processing of proposed legislation; and 3) influence of local sponsor's on the prioritizing of the proposed legislation. Depending on the stability of the country, these factors can change rapidly and radically. Monitoring these factors during the planning and approval stages would allow a smoother transition into a project's tasks. If monitoring cannot be incorporated, a longer lead time to make these assessments might be advisable and included as a part of the task.

B. Key to drafting specific legislation is general knowledge of legal and legislative structure and process.

Cookie cutter legislation does not work. The failure of this type of legislation is its inability to address cultural, historical and social values. An understanding of the differences between Civil and Common law is helpful. However, this Project's experience confirms that Civil law principles do not necessarily equate to needs of Latvian or other individual countries in the Central and Eastern European or former Soviet Block countries. Further, the cookie cutter legislation is often used without consideration of the interdependency of laws of the particular country involved. A criminal law can influence the interpretation of a law on bankruptcy which in turn influences a law on registration of collateral. Since these laws are also in the process of evaluation and change, it is important to monitor and remain updated on the laws.

C. Desirability of "Notice" Registry System must be questioned in light of society's 1) allocation of risk and costs under its laws and customs and 2) structure of legislative, administrative, and judicial functions.

A Notice Registry System is viewed as an efficient, quick means of providing information to creditors. To determine the desirability of a Notice Registry System, however, one must look to see how a country has 1) allocated risk and costs under its laws and customs and 2) structured its legislative, administrative and judicial functions. For example, the US divides the governing process between three branches: executive, legislative and judiciary. Each branch has assigned or assumed powers. The allocation of the governing process and powers of each designated unit differ in other countries. The costs associated with having a government intercede in private matters corresponds with the complexity of the task assigned. Additional costs occur depending on the degree of bureaucracy, corruption and incompetence. For purposes of these comments, it is assumed that these latter elements remain constant between the countries. Further, the steps associated with pledges of collateral include not only the noticing of others of the pledge but the enforcement of the creditor and debtors rights.

The notice registry system offers little assistance to the creditor in enforcing the pledge other than providing evidence of the timing of the recording. The creditor must look to the judiciary to resolve any disputes about the validity of the pledge. The judicial function and authority in Latvia is not as broad as in the US. This difference can be viewed as a function of Latvia's Civil law basis, the familiarity of the society with the government performing many of the duties that might be consider private functions under other systems or an allocation of duties between branches of the government. Civil law countries define the duties of their judges differently than Common law countries. It may be generally stated that Civil law allows the judge less discretion in the interpretation of the law. Latvia, as a former Soviet Block country, has experience a great deal of government control of everyday activities. Disputes regarding the validity of the pledge would be resolved at an earlier stage of the governing process in Latvia than in the US. The costs of administering the resolution or potential resolution of the dispute is higher in Latvia because all registered pledges will be reviewed rather than those just disputed ones. However, this allocation conforms with the history and custom of Latvia to shift such a review to an administrative agency rather than the courts. Conversely, it reduces the costs of litigating this issue in the court system. As evidenced by the volume of litigation in the USA courts and the costs associated with such litigation, a notice system per se does not eliminate the potential costs to a creditor to resolve this type of dispute.

However, the need to limit the function of the Pledge Registry to sometime less than an absolute verifier of facts was found desirable by the working staff of the Latvian Pledge Registry when the potential personal liability of the staff members and working hours were discussed. Thus the "cost and risk allocation" analysis resulted in modifications to the Commercial Pledge Law clarifying what steps will be taken to review the documents and restricting the extent to which the Pledge Registry will assume responsibility for the agreement between the creditor and debtor. This clarification is helpful to the creditor and debtor as it reduces the likelihood of arbitrary rejections of applications and notifies the parties of their responsibilities to investigate, document and adjudicate certain matters.

D. Political , personal and economic factors may interfere with the actual incorporation of technology and systems which would otherwise increase efficiency.

Easily accessible and complete information can be threatening to individuals, business and political fractions. The method and degree that a government must balance between one's right to privacy and the public right to know is a key issue being considered by international funding entities and organizations. Technologically based information by its nature creates additional concerns as it has the potential to increase the speed of access; facilitate the analysis of seemingly unrelated information, and increase the

scope of information which was not previously possible. Technology is costly to install and maintain. Maintenance and upgrading a computerized registry must be anticipated from the initial installation or the system will become antiquated within a matter of years. Protecting against over-engineering in a computer system, as well as procedure must be part of creating a "sustainable" registry and one which will be less threatening by various individuals, businesses and political fractions.

E. Assessment of mutual understanding and agreement on general principles of law must be made to insure good communication and teamwork on drafting of legislation.

Law has its own unique terminology. Yet a term may be interpreted in as many ways as there are lawyers involved in the discussion. The uncertainty of the meaning of legal terms is compounded exponentially by the number of languages that the respective lawyers speak. However, a mutual understanding and agreement on general principals of law must be obtained to insure that not only translations of the text of a law be properly made but that concepts be incorporated in the text in the native language. The Project's experience is that this understanding and agreement can be obtained by use of practical examples reviewed with more than just one local attorney. Discussion groups were sponsored by the Project with other attorneys, representatives of the banking industry, governmental agencies and other interested persons. From these discussions, the Project was able to understand that differing opinions that attorneys held on certain legal concepts (e.g. one group sponsors an argument that there are "general pledges" defined under the Civil Code while others hotly dispute this theory).

F. Technology and legal principals relating to registries may vary but produce the same result.

The Latvian registries, including the Pledge Registries, are being linked electronically through the efforts of a private company, Lursoft. As such, the data from the respective registries are becoming available to other registries to confirm or complete information. However, there is not a clear legal statement of the responsibilities of the respective agencies to each other to transfer the information and the public's right to relay on the information obtain through this exchanges. Thus, the public can get actual notice but not necessarily legal notice from other registries. When resources are limited, the need to spend time and money to legitimize the noticing system provided by technology is minimized. It is important to emphasize that there needs to be consist and clear delineation of legal rights in the text of the laws and not to rely solely on the technology (no matter how advanced the latter is).

G. Basic management relating to IT entities needs to be taught.

In earlier programs to the former Soviet Union countries, it was determined that some of the basic Western concepts (e.g. increase productive is desirable because it increase profitability) on how an economy works and the individuals working in that economy were not understood or the accepted norm. Likewise, certain basic management concepts as they related to technologically dependent systems and procedures are not well understood or recognized to be different than those of general management. The staff at the Pledge Registry recognized the need for this type of training which was included in the course material of the Overseas Training and Exchange Program. Management tools of this nature are directly related to the ability to continue the practices and procedures required to insure the sustainability of the accomplishments of this Project.

VI. RECOMMENDATION FOR FOLLOW-ON ASSISTANCE ACTIVITIES

The recommended follow-on assistance activities are as follows:

A. The Law

The Project made certain recommendation to the Pledge Registry for amendments to the law. Certain amendments were believed acceptable to present to the Saeima this year. However, the Pledge Registry believed that some of the remaining recommendations were not needed due to the technological set up of the Pledge Registry and other policy considerations or could not be obtained for political or financial reasons within the coming year. Additionally, the Commercial Pledge Law is a section of the Commercial Code which is under consideration for enactment this year (1999). A review of the Commercial Pledge Law in context of the Commercial Code should be completed once the final draft of the Commercial Code is made. Amendments either to the Commercial Code or the Commercial Pledge Law should be developed to insure consistency within the law.

B. The Web Site

It was decided that the Project would assist in the development of the design and text for the Pledge Registry's website. The Pledge Registry and Lursoft agreed to complete the installation and testing of the material after the close of the Project. A review of the material should be made to determine if the translated text and design of the website corresponds with the submitted material to the Pledge Registry and Lursoft. Ideally, there should be a follow up assessment on educational materials on the website in six months to see the following: 1) if the information is current and 2) assess the understanding of target groups' satisfaction with Pledge Registry by monitoring response to website and direct interviews with selected parties.

C. Technology

Latvia has a good computerized system that is well on its way to integrating different governmental data bases in Latvia. However, finances are somewhat limited to install and design the applications for the expansion of the system. Further financial and technical assistance could also assist the Pledge Registry in the use of electronic scanning or electronic documentation of pledges. The Pledge Registry recognizes the advantage of storing documents electronically but funding would be needed to purchase equipment and changing the law to authorize the use of such techniques.

D. The Business Community

In the initial survey of practices and procedures of the Pledge Registry, the Project conducted a series of interviews with bankers and equity investors. The standard loan secured by a pledge was for a short duration (one year). Multiple loans secured by the same item were rare. Appraisals for loan purposes and security purposes was elementary. An example of how one lender described his appraisal of a property was to accept one-half of the value stated by the owner as the true value. While there are some government guaranteed loan programs for farmers, there is no system for the sale of loans between banks. While some advancements have been made over the term of the Project, loans continue to be for a short duration and secured by the total assets of the borrower. Technical advice and training services to the banking and appraisal industry in making loans, conducting appraisals and qualifying loans for resell to other bankers would benefit the overall goal to expand access to credit by holders of business assets pledged as collateral.

VII. RECOMMENDATION FOR WORK IN OTHER REGIONS

A. Regional Roundtable Discussion

A cursory review of the information available on collateral law and registries within the Central and Eastern European, as well as the other former Soviet Block countries, fails to show 1) a consistent approach to the establishment of such systems; 2) a method to evaluate the accomplishments in the region; and 3) means to insure sustainability of the registries. While each country differs, the Soviet influence of over 50 years on the different countries has resulted in similar problems or obstacles to establishing a capital market. It is recommended that a sharing of lessons learned by the contractors in the region would produce a format and approach that would heighten the success in any region that is undergoing the transfer to a capital market.

B. Recognizing the Value of Data in Private Industry

The Latvians have developed a centralized, integrated system that could be competitive with other systems being sold by other countries. The advantage of having a "home-grown" system was that the start-up cost were considerably less than neighboring countries. The costs of managing the system have been kept at a minimum by allowing a private company, Lursoft, to have non-exclusive use of the data for its own business. Very much like cookie-cutter legislation, importing sophisticated, complete computer systems may not be advisable when considering the initial costs of installation and need to continue the upgrading and maintenance of those systems in the future. Consideration should be given to encouraging local development of the computer system. Further, recognition of the value of data by private industry might result in reduction of the initial cost of installation and management of the system through the sale of the rights to the non-exclusive use of the data to a private company in exchange for the development of the system and maintenance in the future.

VII. CONCLUSION

With the conclusion of this Project, USAID has completed its participation in collateral law reform for Latvia which commenced with the drafting of a comprehensive new law and completion of an assessment/feasibility study of the plan for a national collateral registry system. Latvia has enacted a collateral law which is comparable to the EBRD model, UCC model and other international standards. The Pledge Registry is equipped with a central, integrated computerized system that allows easy filing, retrieval and tracking of financial information on debtors. Training provided through this Project to the Pledge Registry staff has encouraged procedures including a review to achieve the best practices of the Pledge Registry. These evaluations will insure the sustainability of an effective registry system. Target groups and the public were given opportunities to gain an understanding of the collateral law system. This training opportunity continues through the web site of the Pledge Registry.

Lessons learned during the course of this Project included the following: 1) factors monitoring the timing of the passage of key legislation need to be monitored prior to the commencement of the Project or as part of the Project's tasks; 2) cookie cutter legislation does not work; 3) a "notice registry" may not be desirable in all countries; 4) an efficient system may be prohibited by political, personal and economic factors; 5) coming to a mutual understanding and agreement on general principles of law insures good communication and teamwork on drafting legislation; 6) technology and legal principles may vary but produce the same results; and 6) basic management relating to information technology entities is needed to insure sustainability of registries.

Recommendation for follow-on activities relate to the law, technology, web site and business community. Recommendations for future activities include the holding of a roundtable discussion of contractors in the region on the lessons learned in the respective countries and encouragement of the development of the computer system within a country and reduction of costs of that development and maintenance through the sale of data to private industry.